



Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) Notices Published: **Action Required**

February 25, 2010

As required by the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), the Department of Labor has issued a [Model Notice](#) for group health plans to use in notifying employees about their potential CHIPRA rights. The purpose of this Memorandum is to assist employers in achieving compliance with the CHIPRA Notice Requirements.

Background

The Children's Health Insurance Program is a federally mandated program pursuant to Titles XIX and XXI of the Social Security Act administered and partially funded under state law. The American Recovery and Reinvestment Act of 2009 contained enhancements to the original legislation including the following:

- 1. New Enrollment Rights.** CHIPRA requires employers/plan sponsors to offer a new special enrollment right to those employees and/or dependent children who:
 - a. Either lose coverage under a Medicaid or state plan (such as California's MediCal), or,
 - b. Become eligible for group health premium assistance under a Medicaid plan or state CHIP plan.
- 2. Formal Notice Requirements.** Employers in most states must distribute an annual Notice to all employees eligible for the employer-sponsored group health plan describing new open enrollment rights as well as the availability of premium assistance to Medicaid-eligible individuals.

Details

- 1. Notice Content.** The Notice must provide a very brief description of premium assistance and may rely on state contact information to allow employees to obtain specific state-based information regarding eligibility, process for enrolling, and amounts available.

2. **Delivering the Notice.** Employers may combine the Notice with new hire enrollment materials, open enrollment materials, or include it in the Summary Plan Description so long as the following three conditions are met:
 - a. The annual delivery occurs before the first day of the next plan year (note exception below under “Notice Due Date”);
 - b. The materials are provided annually to all employees (not just plan participants) entitled to receive the Notice (i.e., employees eligible to participate in the relevant health plan); and,
 - c. The Notice appears separately and *“in a manner which insures that an employee who may be eligible for premiums assistance could reasonably be expected to appreciate its significance.”*
3. **Notice Due Date.** As we stated above, employees must receive the Annual Notice before the first day of the next plan year. The rules contains a transition period:
 - a. For plan years beginning after February 4, 2010 and before May 1, 2010, employers must provide the Notice by May 1, 2010;
 - b. For plan years beginning on or after May 1, 2010, the employer must provide the Notice by the first day of the next plan year (e.g. January 1, 2011 for calendar year plans).
4. **Employers Subject to the Notice Requirement.** Employers providing health care benefits (insured or through self-funded arrangements) whose employees reside in a state which provides premium assistance must provide the CHIPRA Notice, regardless of the employer’s situs or the situs of the insurance contract or the plan itself. All states but the following currently offer premium assistance to eligible individuals:

Connecticut	Maryland	Ohio
Delaware	Michigan	South Dakota
Hawaii	Mississippi	Tennessee
Illinois		
5. **Employees Entitled to Notice.** Employers must provide the Notice to all employees, whether enrolled in a health plan or not, and whether potentially eligible for premium assistance or not, who live in a state which provides premium assistance to its residents. It’s worth noting that employers may not be able to rely on the distribution of SPDs alone for giving Notice, since the distribution of SPDs is usually limited to plan participants.
6. **The Model Notice.** For employers with all employees residing in one state, the rules only require the Notice to contain the information provided for that state. Similarly, multi-state employers must list information regarding each relevant state program. The Notice need not contain the Notice information for all 39 states unless the employer has employees in each state.
7. **Fiscal Issues.** In light of the current financial condition of most states, the availability of premium assistance may change over time.

Action Plan

1. Create a timetable.
 2. Identify how many states are involved.
 3. Verify and monitor the availability of premium assistance (at the time the employer may deliver the Notice).
 4. Build the Notice content using the Department of Labor Model.
 5. Choose the method of delivery.
 6. Budget and execute accordingly.
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For more information please visit <http://www.dol.gov/ebsa/>. For a copy of the Model Notice [click here to download a Word-formatted version](#).

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mike@abferisa.com

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JENKINS
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